

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby amends Chapter 71, “Assessment Practices and Equalization,” Iowa Administrative Code.

The subject matter of rule 701—71.3(421,428,441) is the valuation of agricultural real estate. The amendment to this rule requires the assessor to adjust non-cropland in distributing agricultural productivity valuation to each parcel. The adjustment shall be applied to non-cropland with a corn suitability rating that is greater than 50 percent of the average corn suitability rating for cropland for the county.

This amendment is adopted to address the lack of uniformity in the distribution of agricultural productivity value at a parcel level across the state of Iowa. The amendment to subrule 71.3(1) adds a requirement that the assessor adjust non-cropland in distributing agricultural valuation to each parcel and provides an example of the calculation used to compute the adjustment required under this subrule. The amendment also allows a taxpayer to apply to the county for the adjustment to non-cropland beginning with the 2014 assessment and until the county’s full implementation of this subrule.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on March 20, 2013, as **ARC 0653C**. This amendment is identical to the amendment published under Notice of Intended Action.

The Department has determined that the amendment may necessitate additional expenditures in the amount of \$5,000 to \$15,000 per county for those counties with digital parcels. For the five to seven counties without digital parcels, the amendment may necessitate additional expenditures in the amount of up to \$100,000 but possibly a greater amount. The Department has also identified that IOWAccess grants and other funding sources may be available to assist counties in implementation.

An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0659C** on April 3, 2013, to schedule a public hearing on April 26, 2013, and to amend the preamble statement regarding public expenditures.

On Monday, April 22, 2013, prior to the public hearing, the Department received a comment regarding the example in subrule 71.3(1) for calculation of non-tillable land adjustment. The commenter pointed out that the previous adjustment on non-tillable land in the commenter’s county was 50 percent across the board, but the proposed amendment increased the adjustment.

The Department’s response is that the purpose of the amendment is to provide for greater uniformity across counties. This amendment is intended to provide a consistent and uniform method of adjustment for non-cropland corn suitability ratings (CSRs). Actual practice today has resulted in counties that have a variety of adjustments while other counties provide no adjustments. The stakeholders engaged in the Executive Order 80 process arrived at an adjustment that addresses the problem inherent in high CSRs on non-cropland while recognizing that low CSRs on non-cropland are already fair. The stakeholders involved in the Executive Order 80 process included the Iowa Association of Assessors, Iowa Cattlemen’s Association, Iowa Corn Growers Association, Farm Bureau, Iowa Natural Heritage Foundation, Iowa Soybean Association, and a farmer representative. The resultant adjustment calculation stems from many hours of discussion, compromise, and recognition of many opinions pertaining to the appropriateness of adjustments.

On Tuesday, April 23, 2013, the Department received a comment regarding assessors’ ability to determine what land is non-tillable ground based on aerial photography or USDA Farm Service Agency (FSA) land layers. The commenter believes that taxpayers should obtain an adjustment through an annual filing and approval process. The commenter suggested that in this manner, the applicant decides what land is to be considered non-cropland, not the assessor, and that this would be a more equitable process.

The Department’s response is that such a process would be an onerous burden for taxpayers as well as for assessors and would lead to a greater degree of inconsistency and inequity than already exists. Most other property tax adjustments require taxpayers to apply only once and then notify the assessor

if the situation changes. In addition, the Department contends that removing an assessor's discretion completely from the determination of what constitutes non-cropland would be problematic in the long run and would not contribute to the goal of uniformity. The stakeholder group ultimately decided that this adjustment should be determined by the assessor and that taxpayers should not have to apply annually.

The Department of Revenue held a public hearing on April 26, 2013, in the Hoover State Office Building; 21 individuals were in attendance. At the public hearing, the Department received comments from 13 interested parties. A complete transcript of the hearing can be found on the Department's Web site at <http://www.iowa.gov/tax/locgov/agstakeholders.html>.

Four of the interested parties commented about the interim applications for adjustment to non-cropland prior to full implementation. Their concern was that the adjustment cannot be made with confidence until the amendment is fully implemented. Additionally, they expressed concerns that the interim application would lead to a lack of uniformity within a county. Finally, these interested parties expressed concern about the strain on resources it would cause to require a county to make interim adjustments while the county is trying to acquire the tools and information needed for full implementation. All four interested parties stated they were in support of the amendment in general, but were concerned that it is not fair that not every taxpayer would get an adjustment because the taxpayer would have to proactively apply for it.

The Department recognizes that it may be difficult for assessors to implement adjustments prior to full implementation of the amendment. Although not all participants in the Executive Order 80 stakeholder group process completely agreed with every aspect of the amendment, their recommendations arose from the process as outlined and designed; that is, the recommendations are a compromise agreed to by all stakeholders. The stakeholder group, in general, recommended a process to allow interested taxpayers to apply for an adjustment until the county can fully implement the adjustment process. In fact, comments from other interested parties supported the interim adjustments, particularly when a county currently does not perform any kind of an adjustment for non-cropland. Approximately 50 percent of Iowa counties are already providing some type of adjustments for various land or soil conditions, but the remaining counties do not. Speaking in support of the application process for an interim adjustment, one commenter noted that this methodology is no different from the process that exists today for various property tax credits, such as the homestead credit and the military credit. It is reasonable to expect that if a taxpayer wants to receive a tax credit or, in this case, an adjustment on the value of the taxpayer's non-cropland, the taxpayer can and should take the initiative to apply for such a benefit. By law, taxpayers should pay only the tax that is due on the value of their land. An interim process to allow for an adjustment to non-cropland supports this premise.

Five interested parties communicated their concerns about the present inequity described above; that is, that there are many counties that do not allow adjustments of any kind for non-cropland. All five of these individuals spoke in support of the amendment and in support of the interim adjustment. Several comments were made that the amendment provides for a fairer and more equitable treatment of non-cropland than currently exists. Of these interested parties, the Iowa Farm Bureau Federation representative spoke in support of the Executive Order 80 process and the results of the stakeholders' findings, including the application for adjustment in the interim period until full implementation of the amendment by counties is completed.

Another interested party's comments related to the single adjustment for all non-cropland. The interested party's concern was that not all non-cropland parcels should be discounted in the same amount. The Department's response is that the amendment includes a specific methodology that incorporates CSRs and recognizes the overall problem of high CSRs that cause non-cropland to be valued the same as cropland. The "discount" or adjustment is based on the relative comparison of cropland CSR points and non-cropland CSR points in a given county. This standardized approach better achieves the overall goal of uniformity and equity in assessments statewide. It provides a consistent method for all assessors to use that incorporates the unique soil compositions within each county.

The Ringgold County Assessor commented about the cost of implementing this amendment for the five to seven counties without a GIS system as well as the time and effort necessary to implement this amendment. While cost is a concern, the Department has identified possible funding sources

for which counties could apply. The Department believes IOWAccess grants hold great potential for counties to fund GIS projects. The purpose of the IOWAccess revolving fund is to create and provide a service to citizens of the state that will serve as a gateway for one-stop electronic access to governmental information, transactions, and services at state, county, and local levels. In this role, the fund supports agency and municipal proposals for funding of electronic projects. Since the Department and the stakeholder committee recommend the use of GIS electronic technology in implementing this amendment, these funds could potentially be available for counties to pursue. Additionally, equity, fairness, and transparency in assessments and valuation are part of what the Iowa Code requires for Iowa taxpayers. Funding information and applications for IOWAccess grants can be found at <http://iowaccess.iowa.gov/>.

Another interested party's comments reiterated the cost concerns addressed by the Ringgold County Assessor. This individual commented that there is not a sufficient return on investment to support this proposal. Additionally, he was concerned that the entire productivity formula (model) is outdated and needs to be revised. The Department's response is that the productivity formula itself is not the issue this amendment addresses. Rather, this amendment addresses and supports the statutory requirement that assessors place emphasis upon the results of a modern soil survey in spreading the valuation among individual parcels pursuant to Iowa Code section 441.21(1)"f." Currently, the statute provides the only guidance regarding how to allocate the valuation to each parcel. As a result, there is a great degree of variety among counties as to how the valuation is spread to individual parcels. This situation is contrary to the Department's obligation to promote uniformity and is what has raised public concern and brought this issue to the forefront to begin with. The purpose of this amendment is to provide for a more uniform treatment of the distribution of the county aggregate productivity value to each agriculturally classified parcel.

Another interested party, speaking out against use of the interim application, referenced an Iowa Supreme Court case, *Naumann v. Iowa Prop. Assessment Appeal Bd.*, 791 N.W.2d 258 (Iowa 2010). The interested party contended that the case supports not utilizing an interim application because the Court held that it is not necessary to equalize agricultural property between counties. However, the Department's response is that in *Naumann*, the Court actually found that Iowa Code section 441.21(1)"d" does not apply to agriculturally classed property because agriculturally classed property is not valued based on a fair market value but rather upon a productivity value. Therefore, the interested party's citation of this case was misguided and inaccurate. The Court recognized that the Department equalizes aggregate productivity value between counties not through Iowa Code section 441.21(1)"d" but rather through Iowa Code sections 441.21(1)"g" and "e." This amendment does not address differences in productivity value by county. The land in each county innately varies in its level of productivity. Rather, the amendment addresses the existing differences in how assessors are spreading the productivity value from the aggregate level to each individual parcel. The amendment promotes a uniform methodology so that Iowa taxpayers can be assured that their parcel valuations in varying assessing jurisdictions were arrived at using uniform methods. In fact, it would be illogical for taxpayers to expect that parcels in different areas of the state would have the same value.

After analysis and review of this rule making, a positive impact on jobs could exist.

This amendment is intended to implement Iowa Code sections 441.17, 428.4, and 441.21.

This amendment will become effective July 3, 2013.

The following amendment is adopted.

Amend subrule 71.3(1) as follows:

71.3(1) Productivity.

a. In determining the productivity and net earning capacity of agricultural real estate, the assessor shall also use available data from Iowa State University, the United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS), the USDA Farm Service Agency (FSA), the Iowa department of revenue, or other reliable sources. The assessor shall also consider the results of a modern soil survey, if completed. The assessor shall determine the actual valuation of agricultural real

estate within the assessing jurisdiction and spread distribute such valuation throughout the jurisdiction so that each parcel of real estate is assessed at its actual value as defined in Iowa Code section 441.21.

b. In distributing such valuation to each parcel under paragraph 71.3(1)“a,” the assessor shall adjust non-cropland. The adjustment shall be applied to non-cropland with a corn suitability rating (CSR) that is greater than 50 percent of the average CSR for cropland for the county. The adjustment shall be determined for each county based upon the five-year average difference in cash rent between non-irrigated cropland and pasture land as published by NASS. The assessor may utilize the USDA FSA-published Common Land Unit digital data or other reliable sources in determining non-cropland. Counties shall implement the adjustments under this paragraph on or before the 2017 assessment year. The department of revenue may, in a case involving hardship, extend the implementation of the adjustments required under this paragraph to the 2019 assessment year. No extension of time shall be granted unless the county makes a written request to the department of revenue for such action.

c. A taxpayer may apply to the county for the adjustment to non-cropland under paragraph 71.3(1)“b” beginning with the 2014 assessment and until the county’s full implementation of this subrule. Upon application, and subsequent approval by the assessor, the county assessor shall adjust non-cropland as provided in paragraph 71.3(1)“b.” Once a taxpayer applies for the adjustment, and upon approval, the assessor shall make the adjustment to the assessment year for which the application was submitted and until the county’s full implementation of this subrule, without the need to reapply for the adjustment.

d. EXAMPLE. The following is an example of the calculation used to compute adjustment on land determined to be non-cropland with a CSR that is greater than 50 percent of the average CSR for cropland for the county:

<u>Average county CSR rating for cropland</u>	<u>80 CSR</u>
<u>50% of average cropland CSR</u>	<u>40 CSR</u>
<u>Example of non-cropland soil 11b CSR rating</u>	<u>58 CSR</u>
<u>Non-cropland CSR points to be adjusted</u>	<u>58 – 40 = 18 CSR points</u>
<u>5-year average rent for non-irrigated cropland</u>	<u>\$163.60</u>
<u>5-year average rent for pasture land</u>	<u>\$48.30</u>
<u>Percent difference (rounded)</u>	<u>1 – (\$48.30/\$163.60) = 70%</u>
<u>Apply the percent difference to points to be adjusted</u>	<u>18 CSR points × (1 – .70) = 5.40 adjusted CSR points</u>
<u>Adjusted CSR non-cropland</u>	<u>40 + 5.40 = 45.40 adjusted CSR points</u>

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/13.